

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

| | | |
|---|---|----------------------------|
| MOTOROLA MOBILITY, INC. and |) | |
| GENERAL INSTRUMENT |) | |
| CORPORATION, |) | Case No. 5:11-cv-00053-JRG |
| |) | |
| Plaintiffs, |) | |
| |) | JURY TRIAL DEMANDED |
| vs. |) | |
| |) | |
| TIVO INC., |) | |
| |) | |
| Defendant. |) | |
| |) | |
| <hr style="width: 40%; margin-left: 0;"/> |) | |
| TIVO INC., |) | |
| |) | |
| Counterclaim Plaintiff, |) | |
| |) | |
| vs. |) | |
| |) | |
| MOTOROLA MOBILITY, INC., GENERAL |) | |
| INSTRUMENT CORPORATION, TIME |) | |
| WARNER CABLE INC., and TIME |) | |
| WARNER CABLE LLC, |) | |
| |) | |
| Counterclaim Defendants. |) | |
| <hr style="width: 40%; margin-left: 0;"/> |) | |

NOTICE OF TRIAL SUBPOENAS

TO EACH PARTY AND TO EACH ATTORNEY OF RECORD:

Pursuant to Federal Rule of Civil Procedure 45, TiVo, by and through its attorneys, hereby provides notice of its intent to serve the attached trial subpoenas on Motorola Mobility, Inc.'s Custodian of Records, Time Warner Cable Inc. 's Custodian of Records, Michael LaJoie, Kevin Leddy, and Peter Stern.

Dated: May 24, 2013

/s/ Thomas C. Werner

Thomas C. Werner

Sam Baxter, Lead Attorney
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sbaxter@mckoolsmith.com
Texas Garret W. Chambers
State Bar No. 00792160
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Thomas C. Werner (*Pro Hac Vice*)
twerner@irell.com
1800 Avenue of the Stars, Suite 900
Los Angeles, California 90067-4276
Telephone:(310) 277-1010
Facsimile:(310) 203-7199
Attorneys for TiVo Inc.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 24th day of May, 2013.

/s/ Thomas C. Werner

Thomas C. Werner

UNITED STATES DISTRICT COURT

for the
Eastern District of Texas

Motorola Mobility, Inc., et al.

Plaintiff

v.

TiVo Inc.

Defendant

Civil Action No. 5:11-cv-53 JRG

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION

To: Custodian of Records, Motorola Mobility, Inc., 5300 WESTPORT PKWY, FORT WORTH TX 76177

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States District Court
500 North State Line Avenue
Texarkana, Texas 75501

Courtroom No.: 319

Date and Time: 06/10/2013 9:00 am

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

All source code offered for inspection in the above-referenced action by or on behalf of Motorola Mobility, Inc. Motorola Mobility, Inc.'s Custodian of Records shall bring the source code on a Secure Computer or other computer readable medium such that the source code previously offered for inspection by Motorola Mobility, Inc. may be accessed and viewed in Texarkana, Texas in connection with the trial of the above-referenced action.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Fed. R. Civ. P. 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 05/24/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Thomas C. Werner

*Attorney's signature*The name, address, e-mail, and telephone number of the attorney representing (*name of party*) TiVo Inc.

_____, who issues or requests this subpoena, are:

Thomas C. Werner, Irell & Manella LLP, 1800 Avenue of the Stars, Suite 900, Los Angeles, CA 90067-4276,
TWerner@irell.com, (310) 203-7956

Civil Action No. 5:11-cv-53 JRG

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

UNITED STATES DISTRICT COURT

for the
Eastern District of Texas

Motorola Mobility, Inc., et al.

Plaintiff

v.

TiVo Inc.

Defendant

Civil Action No. 5:11-cv-53 JRG

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTIONTo: Custodian of Records, Time Warner Cable Inc., c/o C T CORPORATION SYSTEM, 350 N SAINT PAUL ST STE
2900, DALLAS, TX 75201-4234

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States District Court
500 North State Line Avenue
Texarkana, Texas 75501

Courtroom No.: 319

Date and Time: 06/10/2013 9:00 am

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

All source code offered for inspection in the above-referenced action by or on behalf of Time Warner Cable Inc. Time Warner Cable Inc.'s Custodian of Records shall bring the source code on a Secure Computer or other computer readable medium such that the source code previously offered for inspection by Time Warner Cable Inc. may be accessed and viewed in Texarkana, Texas in connection with the trial of the above-referenced action.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Fed. R. Civ. P. 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 05/24/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Thomas C. Werner

*Attorney's signature*The name, address, e-mail, and telephone number of the attorney representing (*name of party*) TiVo Inc.

_____, who issues or requests this subpoena, are:

Thomas C. Werner, Irell & Manella LLP, 1800 Avenue of the Stars, Suite 900, Los Angeles, CA 90067-4276,
TWerner@irell.com, (310) 203-7956

Civil Action No. 5:11-cv-53 JRG

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

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(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

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(i) expressly make the claim; and

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UNITED STATES DISTRICT COURT

for the
Eastern District of Texas

Motorola Mobility, Inc., et al.

Plaintiff

v.

TiVo Inc.

Defendant

Civil Action No. 5:11-cv-53 JRG

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTIONTo: Michael LaJoie, Time Warner Cable Inc., c/o C T CORPORATION SYSTEM, 350 N SAINT PAUL ST STE 2900,
DALLAS, TX 75201-4234

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Date: 05/24/2013

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*_____
/s/ Thomas C. Werner_____
*Attorney's signature*The name, address, e-mail, and telephone number of the attorney representing (*name of party*) TiVo Inc.

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Thomas C. Werner, Irell & Manella LLP, 1800 Avenue of the Stars, Suite 900, Los Angeles, CA 90067-4276,
TWerner@irell.com, (310) 203-7956

Civil Action No. 5:11-cv-53 JRG

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tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

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UNITED STATES DISTRICT COURT

for the
Eastern District of Texas

Motorola Mobility, Inc., et al.

Plaintiff

v.

TiVo Inc.

Defendant

Civil Action No. 5:11-cv-53 JRG

**SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION**To: Kevin Leddy, Time Warner Cable Inc., c/o C T CORPORATION SYSTEM, 350 N SAINT PAUL ST STE 2900,
DALLAS, TX 75201-4234

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Place: United States District Court
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Date: 05/24/2013

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ Thomas C. Werner

*Attorney's signature*The name, address, e-mail, and telephone number of the attorney representing (*name of party*) TiVo Inc.

, who issues or requests this subpoena, are:

Thomas C. Werner, Irell & Manella LLP, 1800 Avenue of the Stars, Suite 900, Los Angeles, CA 90067-4276,
TWerner@irell.com, (310) 203-7956

Civil Action No. 5:11-cv-53 JRG

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tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

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Printed name and title

Server's address

Additional information regarding attempted service, etc:

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(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

UNITED STATES DISTRICT COURT

for the
Eastern District of Texas

Motorola Mobility, Inc., et al.

Plaintiff

v.

TiVo Inc.

Defendant

Civil Action No. 5:11-cv-53 JRG

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTIONTo: Peter Stern, Time Warner Cable Inc., c/o C T CORPORATION SYSTEM, 350 N SAINT PAUL ST STE 2900,
DALLAS, TX 75201-4234

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States District Court
500 North State Line Avenue
Texarkana, Texas 75501

Courtroom No.: 319

Date and Time: 06/10/2013 9:00 am

You must also bring with you the following documents, electronically stored information, or objects (*blank if not applicable*):

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Fed. R. Civ. P. 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 05/24/2013

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*_____
/s/ Thomas C. Werner_____
*Attorney's signature*The name, address, e-mail, and telephone number of the attorney representing (*name of party*) TiVo Inc.

_____, who issues or requests this subpoena, are:

Thomas C. Werner, Irell & Manella LLP, 1800 Avenue of the Stars, Suite 900, Los Angeles, CA 90067-4276,
TWerner@irell.com, (310) 203-7956

Civil Action No. 5:11-cv-53 JRG

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
_____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

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